

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 5:04-cr-303
)	
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	
)	MEMORANDUM OPINION AND
)	ORDER
JON M. BAUMGARDNER,)	
)	
)	
DEFENDANT.)	

This matter is before the Court on the motion of plaintiff United States of America (the “government”) for an order authorizing payment from an inmate trust account. (Doc. No. 67.) By this motion, the government requests that the Bureau of Prisons be directed to turn over to the government the full amount of the inmate trust account of defendant Jon M. Baumgardner (“Baumgardner”), minus \$300.00, toward satisfaction of Baumgardner’s remaining restitution balance. Baumgardner opposes the motion. (Doc. No. 68.)¹

On July 18, 2006, the Court sentenced Baumgardner to a term of imprisonment of 188 months. (Doc. No. 55 (Judgment).) As part of his sentence, Baumgardner was ordered to pay restitution in the amount of \$8,320.71. A special assessment of \$500.00 was also made, and a payment plan was established. (*Id.* at 5–6.) The balance remaining due, as of May 27, 2021, is \$3,770.63.

¹ In connection with the present motion, Baumgardner also filed a motion for leave to file supplemental exhibits, *instante* (Doc. No. 69); a motion to correct clerical error (Doc. No. 70); and a motion for leave to file supplemental persuasive authority, *instante*. (Doc. No. 71.) These motions (Doc. Nos. 69–71) are granted and the Court has considered these filings.

The government represents that, as of May 27, 2021, Baumgardner has a balance of approximately \$2,708.78 in his inmate trust account. The Court finds that these funds represent a windfall that are recoverable under 18 U.S.C. § 3664(n). Federal courts, including courts within this judicial district, have applied § 3664(n) to motions seeking to recover unexpected gains in inmate trust accounts. *See, e.g., United States v. Lassiter*, No. 13-cr-20476, 2021 WL 486611, at *3 (E.D. Mich. Feb. 10, 2021); *United States v. Debolt*, No. 3:13-cr-134, 2021 WL 378361, at *2 (N.D. Ohio Aug. 23, 2021) (Carr, J.); *United States v. Bazazpour*, No. 4:08-cr-171, 2021 WL 2980679, at *2 (N.D. Ohio July 14, 2021) (Pearson, J).

Accordingly, and for the foregoing reasons, the Court GRANTS the government's motion. The Court hereby ORDERS that the Bureau of Prisons issue a check, made payable to the United States District Court Clerk, and mail it to 801 West Superior Avenue, 1-127, Cleveland, Ohio 44112, in the full amount of the funds, minus \$300.00 that will remain in said account for Baumgardner's miscellaneous expenses, to the Clerk of Court to be applied towards Baumgardner's debt.

IT IS SO ORDERED.

Dated: December 8, 2021



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE